

## REMARKS

Applicants submit this response to the Office Action dated November 18, 2004. Claims 1, 5, and 7 are amended as discussed below, claims 2-4 are cancelled and no new matter is added.

Claims 1-11 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Reconsideration and withdrawal of this rejection are respectfully requested.

Without acquiescing to the ground of rejection, part (e) of claim 1 has been amended to clarify that the polynucleotide at least 90% identical to the polynucleotide of (a), (b) or (c) encodes a polypeptide having the amino acid sequence of SEQ ID NO:2. Part (e) no longer refers back to part (d). Applicants submit that these amendments clarify the claim language in a manner that addresses the issues raised at page 3, lines 9-11 and lines 12-16 of the Office Action. Regarding the language relating to "at least one conservative amino acid substitution" in claim 5, the Examiner cited Lazar et al., Mol. and Cell. Biol. 8:1247-1252, 1988, as representing the state of the art in peptide chemistry. Applicants submit that the state of the art has progressed considerably since 1988, and that one of skill would be familiar with more advanced methods of protein chemistry at the time of the filing the application 12 years later. However, in order to advance prosecution of the application, claim 5 has been amended to recite between one and ten conservative amino acid substitutions, as disclosed at page 14, lines 10-15 of the specification. As clearly indicated in the specification, the only changes disclosed in relation to "conservative" amino acid substitutions are those "preferably of a minor nature" that "do not significantly affect the folding or activity of the protein." (Page 14, lines 10-12.) The information in the Lazar publication cited above simply constitutes part of the knowledge in the art that one of skill would apply when substituting an amino acid.

Applicants submit that in view of the amendments to claims 1 and 5, these claims, and the claims which depend from claims 1 and 5, are no longer subject to these grounds of rejection, withdrawal of which are respectfully requested.

Claims 1-11 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0081659 A1, published on June 27, 2002 and

filed on March 12, 1999. In view of the amendments to the claims as discussed below, applicants submit that this rejection can be withdrawn.

Without acquiescing to the ground of rejection, claim 1 has been amended in part (d) to recite that the complement is the complete polynucleotide complement of (a), (b) or (c). Applicants submit that this obviates the rejection to the extent that claim 1 was interpreted to cover "a genus of polynucleotides of any size and any amount of sequence complementarity" as stated at page 5, paragraph 6 of the Office Action. In addition, applicants submit that claim 5 as amended is not subject to the ground of rejection stated at page 7, lines 2-5, relating to the "at least one conservative amino acid substitution."

Reconsideration and withdrawal of this ground of rejection are respectfully requested.


Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Boehringer Mannheim Biochemicals 1991 Catalog, page 557. In view of the clarification in the claim language regarding the length of the polynucleotide complement, applicants submit that this rejection can be withdrawn.

Claims 1-11 were provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-11 of copending application No. 10/200,026. Applicants will consider filing a terminal disclaimer at the appropriate stage when allowable subject matter is indicated in either application.

All of the claims remaining in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7650.

Respectfully submitted,  
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